

The Gazette of India



PUBLISHED BY AUTHORITY

No. 27] NEW DELHI, SATURDAY, JULY 4, 1953

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 27th June 1953 :—

| Issue No. | No. and date | Issued by | Subject |
|-----------|--|--|---|
| 161 | S. R. O. 1192, dated the 5th June 1953. | Election Commission, India. | Election Petition No. 14 of 1952. |
| | S. R. O. 1193, dated the 5th June 1953. | Ditto | Election Petition No. 171 of 1952. |
| | S. R. O. 1194, dated the 5th June 1953. | Ditto | Election Petition No. 38 of 1952. |
| 162 | S. R. O. 1195, dated the 20th June 1953. | Ditto | Amendment made in the Notification No. 100/1/2/53 (1), dated the 22nd April 1953. |
| 163 | S. R. O. 1196, dated the 6th June 1953. | Ditto | Election Petition No. 234 of 1952. |
| 164 | S. R. O. 1197, dated the 8th June 1953. | Ditto | Election Petition No. 241 of 1952. |
| | S. R. O. 1198, dated the 8th June 1953. | Ditto | Election Petition No. 101 of 1952. |
| 165 | S. R. O. 1199, dated the 22nd June 1953. | Ministry of Finance (Revenue Division) | Exemption of Sugar from Customs duty leviable under Section 23 of the Sea Customs Act, 1875 and additional duty of customs leviable under section 5 of the Finance Act, 1953. |
| 166 | S. R. O. 1200, dated the 9th June 1953. | Election Commission, India. | Election Petition No. 1 of 1952. |

| Issue No. | No. and date | Issued by | Subject |
|-----------|--|--|---|
| 167 | S. R. O. 1201, dated the 12th June 1953. | Election Commission, India | Election Petition No. 4 of 1952. |
| | S. R. O. 1202, dated the 12th June 1953. | Ditto | Election Petition No. 97 of 1952. |
| 168 | S. R. O. 1284, dated the 28th June 1953. | Ministry of Finance (Revenue Division) | Exemption of imported Copra from Customs duty leviable under section 23 of the Sea Customs Act, 1878 and additional duty of custom leviable under section 5 of the Finance Act, 1953. |

Copies of the Gazette Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

ELECTION COMMISSION, INDIA

New Delhi, the 22nd June 1953

S.R.O. 1290.—It is hereby notified for general information that the disqualifications under clause (c) of section 7 and section 143 of the Representation of the People Act, 1951 (XLIII of 1951), incurred by the persons whose names and addresses are given below, as notified under notification No. BR-P/52(28), dated the 10th May 1952, have been removed by the Election Commission in exercise of the power conferred on it by the said clause and section 144 of the said Act respectively:—

Shri Nageshwar Mishra, Advocate, Laheriasarai, District Darbhanga.

Shri Harishchandra Mishra, Village and P.O. Habibhaur, District Darbhanga.

Shri Ramanandan Mishra, Bangali Tola, Laheriasarai, District Darbhanga.

Shri Brahmdeo Thakur, C/o Shri Ramanandan Mishra, Bangali Tola, Laheriasarai, District Darbhanga.

[No. BR-P/52(76)/9949.]

New Delhi, the 29th June 1953

S.R.O. 1291.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1950 (XLIII of 1950), the Election Commission, in consultation with the Government of Bombay, hereby makes the following amendment in the Commission's Notification No. 102/3/51-Elec.II(1), dated the 26th September, 1951, as amended by its Notification No. 102/3/51-Elec.II(1), dated the 10th May, 1952, namely:—

"Amendment"

In the Table appended to the said notification for the entry in column 2, relating to the Ahmedabad constituency, the entry "Sub-Divisional Magistrate, Ahmedabad" shall be substituted."

[No. 157/3/53(1)/10460.]

P. N. SHINGHAL, Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 22nd June 1953

S.R.O. 1292.—In exercise of the powers conferred by section II of the Chandernagore (Administration) Regulation, 1952 (I of 1952) the Central Government hereby extends to Chandernagore the West Bengal Prohibition of Smoking in Show Houses and Public Halls Act, 1950 (West Bengal Act LV of 1950), (hereinafter referred to as the said Act) as at present in force in West Bengal with the following modifications, namely:—

*Modifications**In the said Act—*

1. In section 1, for sub-sections (2) and (3) the following sub-sections shall be substituted, namely:—

- (2) It extends to the whole of Chandernagore.
- (3) It shall come into force immediately; but its provisions in so far as they relate to prohibition of smoking in public halls shall not have effect until such date as the Central Government, may, by notification in the Official Gazette, appoint".

2. In section 2, after clause (b) the following clause shall be inserted, namely:—
(c) "Administrator" means the Administrator of Chandernagore."

3. In section 6, for the words "The State Government or any officer of the State Government authorised in this behalf" the words "The Administrator" shall be substituted.

Annexure

WEST BENGAL ACT LV OF 1950 (AS AMENDED).

THE WEST BENGAL PROHIBITION OF SMOKING IN SHOW HOUSES AND PUBLIC HALLS ACT, 1950.

(PASSED BY THE WEST BENGAL LEGISLATURE).

(Assent of the Governor was first published in the Calcutta Gazette, of the 16th November, 1950).

An Act to Prohibit smoking in show houses and public halls in West Bengal.

WHEREAS it is expedient to prohibit smoking in show houses and public halls in West Bengal;

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the West Bengal Prohibition of Smoking in Show Houses and Public Halls Act, 1950.

(2) It extends to the whole of Chandernagore.

(3) It shall come into force immediately; but its provisions in so far as they relate to prohibition of smoking in public halls shall not have effect until such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *In this Act,—*

- (a) "Show house" means any building, or any roofed and enclosed structure, used ordinarily or occasionally for the demonstration or exhibition to the public, whether on payment or otherwise, of cinematographic films, dramatical pantomime, or musical performances, dances, physical feats of human beings or animals, conjuring tricks or sleights of hand, boxing, wrestling, skating, billiards or table-tennis competitions, or any other indoor amusement or diversion whatsoever;
- (b) "public halls" means a chamber or hall used ordinarily or occasionally as a place of public assembly or meeting.
- (c) "Administrator" means the administrator of Chandernagore.

3. *Penalty for smoking in show houses and public halls.*—Whoever smokes, during a demonstration, exhibition or meeting, in any part of a show house or public hall reserved for the audience or the spectators shall be punishable with fine which for a first offence may extend to twenty-five rupees and for a second or subsequent offence to one hundred rupees.

4. Power to arrest without warrant.—Any police officer not below the rank of sub-inspector may arrest without warrant any person committing in his presence an offence under section 3.

5. Management to post notices or exhibit slides.—(1) Every person responsible for the management of a demonstration or exhibition in a show house and every person who controls the deliberations or a public assembly or meeting in a public hall, shall bring to the notice of the audience or the spectators, by posting notices prominently or by exhibiting slides, that any person smoking during a demonstration, exhibition or meeting, in any part of such show house or public hall reserved for the audience or spectators shall be liable to arrest without warrant and to fine.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to fifty rupees.

6. Power to exclude from the operation of the Act.—The Administrator may, by general or special order in writing, direct that the provisions of this Act shall not apply in respect of any show house or public hall or any demonstration, exhibition or public meeting therein.

[No. 308-EURL.]

E. GONSALVES, Under Secy.

MINISTRY OF FINANCE

New Delhi, the 22nd June 1953

S.R.O. 1293.—The following amendment is issued by the Government of India to the instructions issued with the Finance Department Notification No. D.13.A.-S.D./42, dated the 14th January 1943, for the guidance of subscribers to the Indian Civil Service Provident Fund and of Account Officers:—

In sub-paragraph (2) of paragraph 7 of the said instructions, for the words "six months", the words "three months" shall be substituted.

[No. F.30(9)-E.V/53.]

S.R.O. 1294.—The following amendment is issued by the Government of India to the instructions issued with the Finance Department Notification No. D.38.A.-S.D./43, dated the 14th October, 1943, for the guidance of subscribers to the Indian Civil Service (Non-European Members) Provident Fund and of Account Officers:—

In sub-paragraph (2) of paragraph 8 of the said instructions, for the words "six months", the words "three months" shall be substituted.

[No. F.30(9)-E.V/53.]

S.R.O. 1295.—The following amendment is issued by the Government of India to the instructions issued with the Finance Department Notification No. D.36.A.-S.D./43, dated the 14th October 1943, for the guidance of subscribers to the Secretary of State's Services (Central Provident Fund) and of Account Officers:—

In sub-paragraph (2) of paragraph 9 of the said instructions, for the words "six months", the words "three months" shall be substituted.

[No. F.30(9)-E.V/53.]

S.R.O. 1296.—In exercise of the powers conferred by the proviso to article 309 read with articles 313 and 372 of the Constitution and paragraph 19 of the Adaptation of Laws Order, 1950, and after consultation with the Comptroller and Auditor General as required by clause (5) of article 148 of the Constitution, the President hereby directs that the following further amendments shall be made in the General Provident Fund (Central Services) Rules, namely:—

In the said Rules—

1. After rule 17 the following rule shall be inserted, namely:—

"17A. (1) The number of policies in respect of which substitution for subscriptions due to the Fund or withdrawal of subscriptions from the Fund may be permitted under rule 17, shall not exceed four:

Provided that where immediately before the 22nd June 1953, substitution for subscription due to the Fund or withdrawal of subscriptions from the

Fund, is permitted in respect of more than four policies, such substitution or withdrawal shall continue to be permitted in respect of those policies.

- (2) The premium for a policy [including any policy referred to in the proviso to sub-rule (1)] in respect of which withdrawal of subscriptions from the Fund may be permitted under rule 17 shall not be payable otherwise than annually.

Explanation.—In computing the maximum number of policies specified in sub-rule (1), policies which have matured shall be excluded.”

2. In sub-rule (2) of rule 36, for the words “six months” the words “three months” shall be substituted.

[No. F.30(9)-E.V/53.]

S.R.O. 1297.—In exercise of the powers conferred by the proviso to article 309 read with articles 313 and 372 of the Constitution and paragraph 19 of the Adaptation of Law Orders, 1950, and after consultation with the Comptroller and Auditor General as required by clause (5) of article 148 of the Constitution, the President hereby directs that the following further amendments shall be made in the Contributory Provident Fund Rules (India), namely:—

In the said Rules—

1. After rule 15, the following rule shall be inserted, namely:—

“15A. (1) The number of policies in respect of which substitution for subscriptions due to the Fund or withdrawal of subscriptions from the Fund may be permitted under rule 15, shall not exceed four:

Provided that where immediately before the 22nd June 1953, substitution for subscriptions due to the Fund or withdrawal of subscriptions from the Fund, is permitted in respect of more than four policies, such substitution or withdrawal shall continue to be permitted in respect of those policies.

- (2) The premium for a policy [including any policy referred to in the proviso to sub-rule (1)] in respect of which withdrawal of subscriptions from the Fund may be permitted under rule 15 shall not be payable otherwise than annually.

Explanation.—In computing the maximum number of policies specified in sub-rule (1), policies which have matured shall be excluded.”

2. In sub-rule (2) of rule 31, for the words “six months”, the words “three months” shall be substituted.

[No. F.30(9)-E.V/53.]

New Delhi the 24th June 1953

S.R.O. 1298.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 149 of the Constitution the President, after consultation with the Comptroller and Auditor General of India, hereby directs that the following further amendments shall be made in the General Provident Fund (Central Services) Rules, namely:—

In the Fifth Schedule to the said Rules—

- (a) for paragraph 1, the following paragraph shall be substituted, namely:—

“An advance for the grant of which special reasons are not required under clause (c) of rule 15, may be sanctioned by the authority competent to grant an advance of pay on transfer under rule 265 of the General Financial Rules, Volume I, or, if the applicant is competent to sanction the advance of pay to himself on transfer, by the administrative authority next higher to the applicant.”

- (b) in paragraph 2—

(i) in the proviso for the words, figures, letter and brackets “Article 159(a) of the Civil Account Code” the words and figures “rule 265 of the General Financial Rules, Volume I”, shall be substituted;

(ii) after the Explanation to the proviso, the following further proviso shall be added at the end, namely:—

“Provided further that in the case of an applicant who is competent to sanction an advance of pay to himself on transfer, the advance for the grant of which special reasons are required will be sanctioned by the authority next higher to that which is competent to sanction to the applicant an advance for the grant of which special reasons are not required.”

[No. F. 30(10)EV/53.]

S.R.O. 1299.—In exercise of the powers conferred by the proviso to article 209 and clause (5) of article 148 of the Constitution the President, after consultation with the Comptroller and Auditor General of India, hereby directs that the following further amendments shall be made in the Contributory Provident Fund Rules (India), namely:—

In the Fifth Schedule to the said Rules—

(a) for paragraph 1, the following paragraph shall be substituted, namely:—

“An advance for the grant of which special reasons are not required under clauses (b) and (c) of rule 12, may be sanctioned by the authority competent to grant an advance of pay on transfer under rule 265 of the General Financial Rules, Volume I, or, if the applicant is competent to sanction the advance of pay to himself on transfer, by the administrative authority next higher to the applicant.”

(b) in paragraph 2—

(i) in the proviso, for the words, figures, letter and brackets “Article 159(a) of the Civil Account Code” the words and figures “rule 265 of the General Financial Rules, Volume I” shall be substituted;

(ii) after the explanation to the proviso, the following further proviso shall be added at the end, namely:—

“Provided further that in the case of an applicant who is competent to sanction an advance of pay to himself on transfer, the advance for the grant of which special reasons are required will be sanctioned by the authority next higher to that which is competent to sanction to the applicant an advance for the grant of which special reasons are not required.”

[No. F. 30(10)EV/53.]

New Delhi, the 27th June 1953

S.R.O. 1300.—In exercise of the powers conferred by the proviso to article 309 read with articles 313 and 372 of the Constitution and paragraph 19 of the Adapataion of Laws Order, 1950, and after consultation with the Comptroller and Auditor General as required by clause (5) of article 148 of the Constitution, the President hereby directs that the following further amendment shall be made in the Civil Service Regulations, namely:—

In the proviso to article 396, for the words and figures “on the 1st August 1952”, the words and figures “on or before the 1st August 1952” shall be substituted.

[No. F.7(48)-EV/52.]

C. B. GULATI, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 28th June 1953

S.R.O. 1301.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (X of 1949), and rule 16 of the Banking Companies Rules, 1949, the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 31 of the said Act and rule 15 of the said Rules shall not apply to the undenoted banking companies in so far as they relate to the publication of their balance sheets and profit and loss accounts for

the period ended the 31st December 1952, together with the auditor's report in a newspaper namely:—

1. Bank of Delhi Ltd., Delhi.
2. Madras City Bank Ltd., Coimbatore.
3. Sree Vardhana Bank Ltd., Kottayam.
4. Mandya Bank Ltd., Mandya.
5. Dooars Union Bank Ltd., Mal, Jalpaiguri.

[No. F4(110)-F.I/53.]

N. C. SEN GUPTA, Dy. Secy.

MINISTRY OF FINANCE (COMMUNICATIONS)

New Delhi, the 25th June 1953

S.R.O. 1302.—In exercise of the powers conferred by section 6 of the Post Office National Savings Certificates Ordinance, 1944 (No. XLII of 1944), the Central Government hereby directs that the following amendments shall be made in the notification of the Government of India in the Ministry of Finance (Communications) No. 1978(B)-CI/48, dated the 21st May 1948, namely:—

In the said notification the following shall be added at the end namely:—

“Further issue of 5-Year Post Office National Savings Certificates shall be discontinued with effect from the close of business on the 30th June 1953.

The holders of the 5-Year Post Office National Savings Certificates shall, until further orders, be allowed, at their option, to hold these certificates after maturity for a further period of 7 years. The amount payable from time to time during this further period of 7 years on these certificates (which includes the interest allowed upto the date of maturity) will be as follows:—

| Face value | Rs. 5 | | Rs. 10 | | Rs. 50 | | Rs. 100 | | Rs. 1,000 | | Rs. 5,000 | |
|--|-------|-----|--------|-----|--------|-----|---------|-----|-----------|-----|-----------|-----|
| Surrender value. | Rs. | As. | Rs. | As. | Rs. | As. | Rs. | As. | Rs. | As. | Rs. | As. |
| After 1 complete year from date of maturity. | 6 | 0 | 12 | 0 | 60 | 0 | 120 | 0 | 1,200 | 0 | 6,000 | 0 |
| After 2 „ | 6 | 4 | 12 | 8 | 62 | 8 | 125 | 0 | 1,250 | 0 | 6,250 | 0 |
| „ 3 „ | 6 | 8 | 13 | 0 | 65 | 0 | 130 | 0 | 1,300 | 0 | 6,500 | 0 |
| „ 4 „ | 6 | 12 | 13 | 8 | 67 | 8 | 135 | 0 | 1,350 | 0 | 6,750 | 0 |
| „ 5 „ | 7 | 0 | 14 | 0 | 70 | 0 | 140 | 0 | 1,400 | 0 | 7,000 | 0 |
| „ 6 „ | 7 | 4 | 14 | 8 | 72 | 8 | 145 | 0 | 1,450 | 0 | 7,250 | 0 |
| „ 7 „ | 7 | 8 | 15 | 0 | 75 | 0 | 150 | 0 | 1,500 | 0 | 7,500 | 0 |

[No. D.6137-CI/53.]

N. V. VENKATARAMAN, Dy. Secy.

CENTRAL BOARD OF REVENUE

New Delhi, the 24th June 1953

S.R.O. 1303.—In pursuance of sub-section (4) of Section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following

further amendments shall be made in its notification No. 32-I.T., dated the 9th November, 1946, namely:—

In the schedule to the said notification under sub-heading "V-West Bengal" against "E-Range, Calcutta" for the entry "1. Non-Companies (I.T. cum E.P.T.) District" the following entries shall be substituted; namely:—

- "1. Non-Companies (I.T. Cum E.P.T.) Distt. I.
- 1A. Non-Companies (I.T. Cum E.P.T.) Distt. II".

[No. 49.]

K. B. DEB, Under Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 26th June 1953

S.R.O. 1304.—In pursuance of clause (c) of rule 2 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Shri A. K. Bose, Assistant Development Officer (Grade I), Development Wing, Ministry of Commerce and Industry, to carry on the functions of Secretary to the Development Council, established for the scheduled industry engaged in the manufacture and production of Heavy Chemicals (Acids and Fertilisers).

[No. 5(3)-IA(G)/52.]

B. B. SAKSENA, Dy. Secy.

New Delhi, the 1st July, 1953

S.R.O. 1305.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the late Ministry of Industry and Supply, No. I(I)-4(41), dated the 7th September, 1950, as amended from time to time, namely:—

To the Schedule annexed to the said Notification the following entry shall be added, namely:—

"All Deputy Magistrates and all Sub-Deputy Magistrates in the State of Orissa."

[No. SC(A)-4(83).]

S.R.O. 1306.—In exercise of the powers conferred by sub-clause (b) of Clause 2 of the Iron and Steel (Scrap Control) Order, 1943, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the late Ministry of Industry and Supply, No. I(I)-4(78)B, dated the 6th January, 1951, as amended from time to time, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

"Political Officers in North-East Frontier Agency."

[No. SC(A)-4(178)/53.]

S.R.O. 1307.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the late Ministry of Industry and Supply, No. I(I)-1(530)-D, dated the 26th May, 1948, as amended from time to time, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

"Political Officers in North-East Frontier Agency."

[No. SC(A)-4(178)/53.]

New Delhi, the 1st July 1953

S.R.O. 1308.—*Corrigendum.*—In the Notification of the Government of India in the Ministry of Commerce and Industry, No. S.R.O. 1675, dated the 30th September, 1952 published in Part II—Section 3 of the Gazette of India Extraordinary, dated the 30th September, 1952,—

In Part IB of the SCHEDULE,

- (i) Against Item No. 7(b) under Col. III for 'Rs. 460' read 'Rs. 360'.
- (ii) Against Item No. 28(b) under Col. I for 'Rs. 245' read 'Rs. 215'.

[No. SC(A)-2(90)/52.]

C. R. NATESAN,
Iron and Steel Controller.

D. HEJMADI, Under Secy.

New Delhi, the 4th July 1953

S.R.O. 1309.—In exercise of the powers conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the following further amendment shall be made in the Cotton Textiles (Control) Order, 1948, namely:—

In the said Order, in the proviso to paragraph (a) of sub-clause (3) of clause 21, for the word and figure "June 1953" the word and figure "September 1953" shall be substituted.

[No. 9(4)-CT(A)/53-4.]

S.R.O. 1310.—In pursuance of rule 6(1) of the Central Silk Board Rules, 1949, the Central Government is pleased to direct that in the Notification of the Ministry of Commerce and Industry No. S.R.O. 683, dated the 9th April, 1952, item 20 shall be amended to read as under:—

20. Shri G. N. Mitra, M. Sc., Director of Industries, Government of Orissa.

[No. 23(31)CTB/52.]

S.R.O. 1311.—In exercise of the powers conferred by sub-clause (1) of clause 5 of the Cotton Textiles (Export Control) Order, 1949, the Central Government hereby directs that the following further amendment shall be made in the Notification of the Government of India in the late Ministry of Commerce No. 67-CW(25A)/48, dated the 26th March, 1949, namely:—

In the said Notification, in paragraph 6, for the existing item (Z), the following item shall be substituted, namely:—

"(Z) Hand-printed sarees, stamped with the processor's texmark and distinguishing number together with any sub-number."

[No. 46(34)-CT(A)/52-11.]

S.R.O. 1312.—In exercise of the powers conferred by sub-clause (1) of clause 5 of the Cotton Textiles (Export Control) Order, 1949, the Central Government hereby directs that the following further amendments shall be made in the Notification of the Government of India in the late Ministry of Commerce No. 67-CW(25A)/48, dated the 26th March, 1949, namely:—

In the said notification,

- (1) In sub-paragraph (2) of paragraph 2, after the words "table cloths" the words "blankets including cotton waste blankets" shall be inserted;
- (2) in sub-paragraph (4) of paragraph 2,
 - (a) the words "handkerchiefs, dusters and napkins", shall be deleted;
 - (b) for the words "securely attached to each item", the following words shall be substituted, namely:—"either securely attached to each item or, where there is a bundle containing not more than six such items, securely attached to the outside wrapping of such bundle";

- (3) in sub-paragraph (5) of paragraph 2, the words "handkerchiefs, dusters and napkins," shall be deleted;
- (4) in item (j) of paragraph 6, the words, "handkerchief, napkin or" shall be deleted.

[No. 46(34)-CT(A)/52-12.]

S. A. TECKCHANDANI, Under Secy.

New Delhi, the 4th July, 1953

S.R.O. 1313.—In exercise of the powers conferred by section 3 of the Drugs, (Control) Act, 1950 (XXVI of 1950), the Central Government hereby directs that the following further amendments shall be made in the notification of the Government of India in the late Ministry of Industry and Supply, No. I(IV)/1-Drugs, dated the 3rd October, 1949, namely:—

In the Schedule to the said notification (i) to the entries under the heading "Messrs. Chas Pfizer and Co., Inc., New York", the following entries shall be added, namely:—

"TERRAMYCIN SUGAR COATED TABLETS 250 mg. each

Bottle of 100

Bottle of 16

Bottle of 8

"TERRAMYCIN SUGAR COATED TABLETS 100 mg. each

Bottle of 100

Bottle of 25

"TERRAMYCIN SUGAR COATED TABLETS 50 mg. each

Bottle of 100

Bottle of 25

"TERRAMYCIN ORAL SUSPENSION

1.5 gm. in a dry raspberry flavoured mixture. 1 oz. fluid bottle.

"TERRAMYCIN VAGINAL TABLETS

100 mg. per tablet—package of 10 tablets in foil strips

"TERRAMYCIN TOPICAL POWDER

30 mg. per gm.—1 oz. packing with sifter top.

"TERRAMYCIN DENTAL CONE

5 mg. Terramycin per Pellet—bottle of 25 cone-shaped pellets

"TERRAMYCIN STERILE GAUZE PADS

Each pack containing 2 mg. Terramycin—3"×3" 12 ply pad in a packet.

"STREPTOMYCIN SULFATE U.S.P.

1 gram".

(ii) to the entries under the heading

"ELI LILLY AND COMPANY OF INDIA, INC.", the following entries shall be added, namely:—

"Pulvules 99 'Lextron F.G.'

M-22 'Melvaron'—1-lb.

Ampoules 573 'Reticulogen Fortified'

Gelseals 45 'Teplin'

Gelseals 46 'Teplin'

Tablets 1666 Sulfadiazine—0.5 gm. (7.72 grs.)

'Homicebrin' M-17—120 cc."

[No. 1-PC(2)/53.]

R. N. KAPUR, Asstt. Secy.

MINISTRY OF FOOD AND AGRICULTURE
(Agriculture)

New Delhi, the 24th June 1953

S.R.O. 1314.—Under the provisions of sub-section (2) of Section 4 of the Indian Lac Cess Act, 1930 (XXIV of 1930), the Central Government is pleased to nominate Prof. G. I. Finch, F.R.S., Director, National Chemical Laboratory, Poona, as Chairman of the Advisory Board of the Indian Lac Cess Committee with effect from the 1st April, 1953, for a term of three years.

[No. 3-11/53-Com.(I).]

S.R.O. 1315.—In pursuance of the powers conferred under Section 4(d) of the Indian Central Coconut Committee Act, 1944, the Central Government is pleased to nominate Shri C. Thomas, Director of Agriculture, Travancore-Cochin State, as a Member, Indian Central Coconut Committee, for a period of 3 years in place of Shri M. Sankara Menon resigned.

[No. 2-14/53-Com. II.]

New Delhi, the 25th June 1953

S.R.O. 1316.—In pursuance of section 4(x) of the Indian Cotton Cess Act 1923 (XIV of 1923), the Central Government are pleased to appoint Shri P. Govindan Nair, I.C.S., Deputy Secretary to the Government of India, Ministry of Commerce and Industry, to be an additional member of the Indian Central Cotton Committee, Bombay, vice Shri S. Bhoothalingam, I.C.S., who has resigned from the Committee.

[No. F.1-2/53-Com.II.]

New Delhi, the 29th June 1953

S.R.O. 1317.—It is notified for general information that in pursuance of sub-clause (iv) of clause (f) of section 4 of the Indian Oilseeds Committee Act, 1946 (IX of 1946), Shri Banarsi Lal Kotriwala has been nominated by the Government of Bihar to be a member of the Indian Central Oilseeds Committee in place of Shri Banarsi Lal Kotriwala and Shri Girish Tewary.

[No. F.5-2/53-Com.I.]

S.R.O. 1318.—Whereas it appears to the Central Government to be necessary and expedient so to do for securing the equitable distribution of an essential commodity, namely coal:

Now, therefore, in exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is hereby pleased to direct that every person who owns or manages a cotton ginning and/or pressing factory shall on or before the 15th August 1953, submit to the Secretary, Indian Central Cotton Committee, Nicol Road, Ballard Estate, Bombay, a statement in the form in the schedule appended hereto, containing true and accurate information relating to his business.

SCHEDULE

(Information to be furnished by Ginning and Pressing Factories. Factories which do not intend to work during 1953-54 season must clearly mention so at the top of this form).

1. (a) Full name and address of the factory.
 (b) Press mark (in the case of a pressing factory).
2. Name of the railway station at which the factory normally receives coal and the name of the railway on which the station is situated.
3. Normal date of commencement and date of finishing of work in the factory.
4. Number of bojas of cotton (lint) of 392 lbs. each ginned in the factory during 1951-52 season.
5. Number of bojas of cotton (lint) of 392 lbs. each ginned in the factory during 1952-53 season (up to the 30th June, 1953).

6. Number of bales of raw cotton pressed in the factory during 1951-52 season.
7. Number of bales of raw cotton pressed in the factory during 1952-53 season (upto the 30th June, 1953).
8. Type of power plant installed in the factory (State whether steam producer gas, diesel or electric. Give details for gin and press separately).
9. Number of gins installed in the factory. (State whether single, double roller or saw gins).
10. Number of half presses installed in the factory.
11. Number of full presses installed in the factory.
12. Tons of coal consumed by the factory during the season 1951-52.
13. Tons of firewood or fuel other than coal consumed by the factory during the season 1951-52.
14. Gallons of diesel oil consumed, by the factory during the season 1951-52.
15. Tons of coal consumed by the factory during the season 1952-53 (up to the 30th June, 1953).
16. Tons of firewood or fuel other than coal consumed by the factory during the season 1952-53 (up to the 30th June, 1953).
17. Gallons of diesel oil consumed by the factory during the season 1952-53 (up to the 30th June, 1953).
18. Quantity of coal that the Secretary, Indian Central Cotton Committee, Bombay recommended that the factory should receive during the 1952-53 season.
19. Quantity of coal sanctioned by the Deputy Coal Commissioner (Distribution) for 1952-53 season. (Give number and date of sanction).
20. Quantity of coal actually received by the factory as a result of items (18) and (19) above during the 1952-53 season (up to 30th June, 1953).
21. Tons of coal purchased by the factory from the market during the 1952-53 season (up to the 30th June, 1953).
22. Tons of coal in stock on 30th June, 1953.
23. Tons of firewood or fuel other than coal in stock on 30th June, 1953.
24. Gallons of diesel oil in stock on 30th June, 1953.
25. Quantity of (i) Kapas (unginned cotton) and (ii) ginned but unpressed cotton actually held in stock in the factory premises on 30th June, 1953 to be ginned and pressed during 1953-54 season.
26. Estimated quantity of cotton (in bales of lint) expected to be ginned and/or pressed during the 1953-54 season (including stocks shown against item 25) by steam power.
27. Estimated quantity of coal in tons excluding the stocks of fuel shown against items (22) and (28) required by the factory during 1953-54 season.
28. Tons of coal and/or firewood not in possession of the factory but in which the factory has any lien or interest on 30th June, 1953.
29. If the factory is a member of any pool, name and address of the Secretary of the pool may be given here.
30. Whether the factory was silent during 1952-53 season and if silent owing to pool, name and address of the Pool Secretary should be given.
31. Has the factory applied before for priority coal for 1953-54 season? If so state:—
 1. Quantity applied for, and
 2. Date of application and to whom made.

32. Has the factory received sanction for priority coal shown against item (31)? If so, what quantity has been sanctioned? Whether the sanction was issued by the Provincial Coal Controller or the Director of Industries or the Deputy Coal Commissioner (Distribution). The number and date of sanction may also be stated.

Date.....

Signature of Factory Manager or Proprietor.

NOTE.—1. In respect of fuel figures (vide items 22, 23 and 24 above) it is essential that not only stocks in possession of the factory should be shown but also any stocks that it may have a lien on/or that may be held by any of the partner or sister concerns should be shown with details.

2. Change of proprietorship of the factory must be intimated to the Secretary, Indian Central Cotton Committee, Bombay, immediately the change is made.

3. In case the factory does not require coal after the application has been made or the recommendation has been issued, the factory must telegraphically intimate to that effect to the Secretary, Indian Central Cotton Committee, Bombay. In the meantime, any coal which happens to be despatched to the factory should be taken delivery of by the factory without delay and kept in its possession pending disposal instruction. Should a factory which has applied for the coal fail to take delivery in time, the demurrage charges and other expenses incurred on that account shall be borne by that factory.

[No. F.3-14/53-Com.II.]

New Delhi, the 1st July 1953

S.R.O. 1319.—In exercise of the powers conferred by Section 18 of the Indian Coconut Committee Act, 1944 (X of 1944), the Central Government hereby directs that the following amendment shall be made in the Indian Central Coconut Committee Provident Fund Rules, 1945, namely, to Clause (b) of rule 18 of the said rules the following words shall be added, namely:—

“or if a subscriber resigns his employment with the permission of the Committee to take up service with the Central or a State Government or with any of the Commodity Committees.”

[No. F. 2-31/53-Comm. I.]

F. C. GERA, Asstt. Secy.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 28th June 1953

S.R.O. 1320.—In exercise of the powers conferred by sub-section (2) of section 5 of the Cinematograph Act, 1952 (XXXVII of 1952), the Central Government hereby directs that the film entitled ‘Road to Bali’ and its trailer produced by Paramount International Films Inc., of U.S.A., shall be deemed to be uncertified films in the whole of India.

[No. 11/6/53-F.II.]

New Delhi, the 29th June 1953

S.R.O. 1321.—In exercise of the powers conferred by sub-section (2) of section 5 of the Cinematograph Act, 1952 (XXXVII of 1952), the Central Government hereby directs that the film entitled ‘Kurbani’ produced by Shri C. J. Pavri, Dadar, Bombay shall be deemed to be an uncertified film in the whole of India.

[No. 11/4/53-F.I.]

A. N. BERY, Dy. Secy.

MINISTRY OF EDUCATION

ARCHAEOLOGY

New Delhi, the 29th June 1953

S.R.O. 1322.—In exercise of powers conferred by sub-section (1) of Section 3 of the Ancient Monuments Preservation Act (VII of 1904), the Central Government

hereby declares the monuments described in the schedule annexed hereto to be protected within the meaning of the said Act.

STATEMENT OF PARTICULARS OF TEMPLES

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---------|--|-------------------------------|------------------|----------------------|---------------|---|
| Sl. No. | Name of locality | Name of the monuments | Ownership | Survey plot Nos. | Area in acres | Boundary |
| 1 | Radhakri sho-repur. Par-ganah-Udaipur. | Temple of Chaturdasha Devata. | Govt. Khas land. | 1596 (portion of) | 085 | West & North :—Jote lands of Kamini Chakravorty. East & South :—Lands of Mahadeo temple. |
| 2 | Do | Gunavati Groups of temples. | Do. | 1763 | 18 | West, North and East :—Taluk of Hari Bhakat Sing. South :—Road. |
| 3 | Rajnagar. Par-ganah-Udaipur. | Bhubano-swari Temple. | Do. | 3016 (portion of) | 18 | North, West and South :—Tilla lands. East :—Govt. waste land and jote of Bepin Chandra Jamaitia. |

[No. F.4-5/53-A2.I]

T. S. KRISHNAMURTI, Asstt. Secy.

MINISTRY OF COMMUNICATIONS

(Posts & Telegraphs)

New Delhi, the 26th June 1953

S.R.O. 1323.—In exercise of the powers conferred by sections 10, 30, 31, 32, 35 and 36 of the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that with effect from the 1st July, 1953, the following further amendments shall be made in the Indian Post Office Rules, 1933, namely:—

In the said Rules—

1. For rule 85, the following rule shall be substituted, namely:—

"85.—In addition to the postage and (in the case of letters and boxes) the registration fee, the following further fees shall be charged for insurance:—

For insurance of letters and parcels to Ceylon and of letters to Aden or Portuguese India—

| | Annas |
|---|-------|
| Where the value insured does not exceed Rs. 100 | 6 |
| For every additional Rs. 100 or fraction thereof over Rs. 100 | 3 |

For insurance of letters to British Somaliland, Burma, Mauritius or Seychelles—

| | Annas |
|--|-------|
| Where the value insured does not exceed Rs. 460 | 12 |
| For every additional Rs. 460 or fraction thereof | 12 |

For insurance of letters to Great Britain and Northern Ireland and to British Possessions and foreign countries other than those mentioned above—

| | Annas |
|--|-------|
| Where the value insured does not exceed £35 | 12 |
| For every additional £35 or fraction thereof | 12 |

For insurance of parcels to Aden, British Somaliland, Burma, Mauritius, Portuguese India or Seychelles—

| | Annas |
|--|-------|
| Where the value insured does not exceed Rs. 320 | 12 |
| For every additional Rs. 320 or fraction thereof | 12 |

For insurance of parcels to Great Britain and Northern Ireland and to British Possessions and foreign countries other than those mentioned above—

| | Annas |
|--|-------|
| Where the value insured does not exceed £24 | 12 |
| For every additional £24 or fraction thereof | 12" |

2. In rule 105, for sub-rule (2) the following sub-rule shall be substituted, namely:—

“(2) In the case of an article intended for transmission to any country mentioned in rule 103 as value-payable, a posting fee of two annas shall be prepaid by the sender:

Provided that in the case of value-payable letters and packets intended for transmission to Aden and Makalla (Gulf of Aden) the posting fee shall be payable at the rate applicable to inland value-payable articles.”

[No. R-1-4/52.]

S.R.O. 1324.—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely:—

In the proviso to sub-rule (1) of rule 44 of the said rules for the words and figures ‘30th June 1953’ the words and figures ‘30th June 1954’ shall be substituted.

[No. C-7-1/52-Pt.I]

V. M. BHIDE, Dy. Secy.

New Delhi, the 29th June 1953

S.R.O. 1325.—The following draft of a further amendment to the Indian Aircraft Rules, 1937, which it is proposed to make in exercise of the powers conferred by section 5 of the Indian Aircraft Act, 1934 (XXII of 1934), is published, as required by section 14 of the said Act, for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 4th September, 1953. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendment

After rule 24 of the said Rules, the following rule shall be added:—

“24A. *Carriage of persons with an unsound mind in aircraft.*—No person shall knowingly carry or permit to be carried or connive at the carriage of a person of an unsound mind in any aircraft.”

[No. 10-A/24-53.]

ORDER

New Delhi, the 24th June 1953

S.R.O. 1326.—In exercise of the powers conferred by rule 160 of the Indian Aircraft Rules, 1937, the Central Government hereby exempts for a further period of six months up to the 31st December, 1953, all persons in charge of aircraft engaged in international navigation, from the operation of clause (V) of sub-rule (2) of rule 7 of the said Rules, in so far as it requires such persons to carry in the said aircraft, the aircraft and engine log books subject to the condition that the working copies of the aforesaid documents are carried in the said aircraft.

[No. 10-A/30-53.]

K. V. VENKATACHALAM, Dy. Secy.

MINISTRY OF TRANSPORT

PORTS

New Delhi, the 23rd June 1953

S.R.O. 1327.—In pursuance of sub-section (3) of Section 6 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879), the Central Government is pleased to publish the following return received from the Secretary, Indian Merchants' Chamber, Bombay, namely:—

Return showing the name of the person elected by the Indian Merchants' Chamber, Bombay in accordance with the provisions of Section 13(2) of the Bombay Port Trust Act, 1879 to be a member of the Board of Trustees of the Port of Bombay during the absence on leave of Shri Ramdas Kilachand.

| Date of election. | Name of person elected. |
|-------------------|-------------------------|
| 2nd June, 1953. | Shri Devji Rattansey. |

[No. 8-PI(142)/53.]

K. NARAYANAN, Under Secy.

MINISTRY OF WORKS, HOUSING AND SUPPLY

New Delhi, the 29th June 1953

S.R.O. 1328.—In exercise of the powers conferred by sub-section (1) of section 17 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952), the Central Government hereby directs that the powers exercisable by it by or under sections 7, 8 and 10 of the said Act shall be exercisable also by the Chief Commissioner of Tripura in respect of property situated within the State of Tripura.

[No. 3166-EII/53.]

S.R.O. 1329.—In exercise of the powers conferred by sub-section (1) of section 17 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952), the Central Government hereby directs that the powers exercisable by it by or under section 10 of the said Act shall be exercisable also by the Chief Commissioners of Ajmer, Bilaspur, Bhopal, Coorg, Kutch and Manipur and by the Chief Secretaries to the Government of Himachal Pradesh and Vindhya Pradesh in respect of property situated within their respective States.

[No. 3167-EII/53.]

K. K. SHARMA, Dy. Secy.

MINISTRY OF LABOUR

New Delhi, the 26th June 1953

S.R.O. 1330.—It is hereby notified for general information that in pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, 1952 made under Section 5 of the Employees' Provident Funds Act, 1952 (XIX of 1952), the Central Government has appointed with effect from the 22nd June, 1953, Shri N. C. Rudra, Accounts Officer, Employees' Provident Funds Scheme, Delhi to be the Regional Commissioner for the whole of the State of Delhi to work under the general control and superintendence of the Central Commissioner, vice Dr. B. R. Seth, on leave.

[No. P.F.516(33).]

S.R.O. 1331.—In exercise of the powers conferred by sub-section (1) of Section 13 of the Employees' Provident Funds Act, 1952 (XIX of 1952), the Central Government hereby appoints Shri N. C. Rudra, Accounts Officer, Employees' Provident

Fund Scheme, Delhi, to be an Inspector for the whole of the State of Delhi for the purposes of the said Act and of any Scheme made thereunder vice Dr. B. R. Seth on leave.

[No. P.F.516(33).]

N. M. PATNAIK, Dy. Secy.
and Central Provident Fund Commissioner.

New Delhi, the 26th June 1953

S.R.O. 1332.—In pursuance of sub-rule (4) of rule 21 of the Minimum Wages (Central) Rules, 1950, the Central Government hereby specifies the amount of fine and deduction mentioned in sub-rule (3) of the said rule as follows:—

- (1) The total amount of fine which may be imposed in any one wage period on an employed person shall not exceed an amount equal to half-an-anna in the rupee of the wages payable to him in respect of that wage period;
- (2) The amount of deduction for damage or loss caused by an employed person shall not exceed the amount of the damage or loss caused to the employer by the neglect of the employed person.

[No. LWI-24(125).]

S.R.O. 1333.—The following draft of an amendment in the Minimum Wages (Central) Rules, 1950, which it is proposed to make in exercise of the powers conferred by section 30 of the Minimum Wages Act, 1948 (XI of 1948), is published as required by the said section for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 31st August 1953.

Any objection or suggestion which may be received from any person with respect to the said draft on or before the date specified will be considered by the Central Government.

Amendment

For clause (1) of sub-rule (2) of rule 21 of the said Rules, the following clause shall be substituted, namely:—

“(i) fines in respect of such acts and omissions on the part of the employed persons as may be specified by the Central Government by general or special order in this behalf.”

[No. LWI-24(125).]

P. N. SHARMA, Under Secy.

New Delhi, the 26th June 1953

S.R.O. 1334.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the management of the Lodna Colliery and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

REFERENCE NO. 7 OF 1952

PRESENT:

Shri L. P. Dave, B.A., LL.B.—Chairman.

PARTIES:

The employers in relation to Lodna Colliery,
and

Their workmen,

APPEARANCES:

Janab W. A. Zaidi, Welfare Officer, Lodna Colliery, for the employers.

Shri M. V. Desai, General Secretary, Koyala Mazdoor Panchayat, for the workmen.

AWARD

By the Government of India, Ministry of Labour, Order No. LR. 2(367) dated 23rd May 1952 read with Order No. LR. 2(395) dated 4th February 1953, the dispute between the employers in relation to Lodna Colliery and their workmen in respect of the four matters specified in the schedule annexed to the first Order, has been referred to this Tribunal for adjudication.

2. Notices were issued to both parties and they filed their respective statements. Several facts are not in dispute. I shall mention and discuss the contentions of both parties regarding each different item, when discussing it.

ITEM NO. 1

Whether the discharge of Wali Mohammad and Wasi Mohammad is justified and if not, whether they should be reinstated with effect from the date of their discharge

3. This item refers to two workmen who are father and son. The father Wali Mohammad was working as a fitter and son Wasi Mohammad was working as a lathe-man. So far as Wali Mohammad is concerned, he was served with a charge-sheet on 30th December 1950, wherein it was mentioned that he was immediately suspended pending his reply to the following charge:

"Inciting workshop personnel on the 27th instant to disorderly behaviour [see Section 27 (5 and 20) of the Standing Orders for Coal Mining Industry]."

To this charge-sheet, he gave a reply on 3rd January 1951 saying that the charges were baseless and that he was on leave on that date and was not even present in the workshop. On the same day, the engineer passed an order of dismissal, stating that his statement (explanation) was not true and that several independent witnesses had given a written statement that he (Wali Mohammad) personally incited them to violence on 27th December 1950 and further that he was in the workshop and later returned to a position near the garage. In their written statement before this Tribunal, the management have alleged that both Wali Mohammad and Wasi Mohammad hatched a plan, collected a crowd and invaded the office of the engineer and threatened him and behaved in a riotous and disorderly manner and incited others to do the same and prevented the work of pit No. 7 being carried out and further that they used subversive language and encouraged the mob not to leave the office. It appears that the management have now mixed up the charges against Wali Mohammad and Wasi Mohammad. As I mentioned above, the charge-sheet served on Wali Mohammad was only that he incited the mob on 27th December 1950.

4. Before proceeding further, I may mention that the employer cannot be allowed to defend a dismissal on grounds other than those alleged originally by him, that is, on grounds not mentioned in the charge-sheet. In considering whether the dismissal of a workman is proper or not, the Tribunal has got only to consider the grounds mentioned in the charge-sheet. To allow an employer to make out other grounds would amount to dismissing a workman for grounds for which he had got no opportunity to defend himself. In other words, the Tribunal must see whether the charge or charges alleged against the workman in the charge-sheet served on them were proved and justified their dismissal. In the case of Wali Mohammad, therefore, what we have to consider is whether he was proved guilty of inciting the workshop personnel on 27th December 1950 for disorderly behaviour.

5. At this stage, I may also refer to the principles laid down by the Labour Appellate Tribunal in the case of B. & C. Mills Ltd. reported at 1951, Vol. II, L.L.J. page 318 at para. 11 which is as under:—

"The power of the management to direct its internal administration, which includes the enforcement of discipline of the personnel, cannot be denied; but with the emergence of modern concepts of social justice, that an employee should be protected against vindictive or capricious action on the part of the management which may affect the security of his service, this power has to be subjected to certain restrictions but at the same time undue interference by a tribunal with administration and management should not be encouraged. It would thus be open to the tribunal to examine the findings of the management on the charge of misconduct to assure itself that there is evidence to support the finding and that the decision of the management is a POSSIBLE view on the evidence before it. In such a case the tribunal should

refrain from substituting its own judgment for the judgment of the management, as in such matters the Tribunal does not act like a court of appeal but rather as a supervisory body exercising what would ordinarily be regarded as powers of reversion for correction of basic errors, which go to the root of the matter and of perverse findings."

We have, therefore, to consider whether there was evidence before the management from which it was possible for them to come to the conclusion that Wali Mohammad was guilty of inciting the workshop personnel on 27th December 1950 for disorderly behaviour. In this connection, the management have produced the statement of one Rasul Mistry dated 27th December 1950 and the statement of six persons made on 2nd January 1951. Rasul Mistry has alleged that he had gone to the house of Keshab Babu two or three days ago. Wali Mohammad was present there and on his telling them that he was to be given a charge-sheet without any fault, they told him that he should go to Mr. Johnson and the workshop people would follow him to his office. He further said that when the charge-sheet was served on him on that morning, he took it to Keshab Babu and he advised him to go to Johnson and the workshop people would go with him to Mr. Johnson. He further said that Wali Mohammad was near the garage at that time. He then went to Mr. Johnson's office and the workshop people accompanied him and surrounded Mr. Johnson's office. It would thus appear that so far as this statement (which was made before any charge-sheet was served on Wali Mohammad) is concerned, it does not in any way show that Wali Mohammad was guilty of any offence. All that is alleged against Wali Mohammad in this statement is that he and Keshab Babu had told Rasul Mistry that he should go to Mr. Johnson and the workshop people would follow him. Actually Rasul Mistry had gone there to see Keshab Babu and Wali Mohammad appeared to have been present by accident. Whatever advice was given to Rasul Mistry must have been given by Keshab Babu. In any case, the statement does not show that Wali Mohammad had in any way suggested any disorderly behaviour by any workman. Further, the statement refers to a talk which took place two or three days before 27th December 1950, and could not be taken to prove that Wali Mohammad incited other workmen on 27th December 1950. From this statement, therefore, it was not possible for the management to hold the charge against Wali Mohammad proved.

6. The management have then produced a statement signed by six persons on 2nd January 1951 and in that statement it has been alleged that in the early morning of 27th December 1950, Wali Mohammad had gone to the workshop and collected all of them and asked them to surround Mr. Johnson the Engineer and beat him if he did not withdraw the charge-sheet issued to Rasul. Wali Mohammad is alleged to have said that he would stay outside the garage. Lastly it is said that after he had gone out, Wasi Mohammad and two others collected the mob and led the mob to surround the Engineer Mr. Johnson. This statement would go to show that Wali Mohammad did incite the workmen to surround the engineer and to beat him if he did not withdraw the charge-sheet issued against Rasul. In other words, if this statement is believed, it would go to show that the charge of inciting the workshop people for disorderly behaviour is proved. Whether these statements should be believed or not would be a question of fact and if the management believed these statements and held the charges proved, this Tribunal cannot interfere. It is not sitting in appeal against the judgment of the management. It can only satisfy itself that there was evidence before the management from which it was possible for them to hold the charges proved. The above statement of six persons did show that, if believed, Wali Mohammad had incited them to disorderly behaviour. It was within the competence of the management to believe or not to believe this statement of these witnesses. They appear to have believed it and held the charges proved. As there was evidence from which they could hold the charge proved, the dismissal of Wali Mohammad would be proper and he cannot be ordered to be reinstated.

7. So far as Wasi Mohammad is concerned, the matter stand on a different footing. He was served with a charge-sheet on 28th December 1950 to the effect that he prevented the work of pit No. 7 being carried out by refusing to leave the engineer's office while enquiries were being made about a clip and secondly he used subversive language and encouraged the mob not to leave the office. He replied to the charge-sheet stating that before the manager came to the engineer's office, he and other workmen were talking to the engineer about their grievances and before they finished talking, the manager came there and began to threaten the workmen. He further stated that he had not used subversive language nor encouraged any man not to leave the office and that all of them went to their work without finishing the talk when they were asked to do so. It is true that in the written statement before this Tribunal, the management have made other allegations also against Wali Mohammad. They have alleged that both Wali

Mohammad and Wasi Mohammad hatched a plan, collected a crowd, invaded the office of the engineer, and threatened him and that both behaved in a riotous and disorderly manner and incited others to do the same and prevented the work of pit No. 7 being carried out and further they used subversive language and encouraged the mob not to leave the office. As I said above, even according to the management, so far as Wali Mohammad is concerned, he was not present when several workers went to the engineer's office. Their case against him appears to be that he first incited the workmen and then went away to a place near the garage. In other words, he had not gone to the engineer's office and the allegations against him made in the written statement in this respect are not correct. The management appear to have mixed up the charges against Wali Mohammad and Wasi Mohammad. As I said above, the management cannot now make out a new case and allege grounds against a workman other than those mentioned in the charge-sheet against him. The charge-sheet against Wasi Mohammad alleged that he prevented the workmen of pit No. 7 from going to work by refusing to leave the engineer's office and secondly that he used subversive language and encouraged the mob not to leave the office. In other words, the charges were that (1) he refused to leave engineer's office and thereby prevented the working of pit No. 7 being carried out, and (2) that he used subversive language and encouraged the mob not to leave the office. There was no charge in the charge-sheet that he led the mob to the engineer's office. I may mention this because in the statement of six persons dated 2nd January 1951 referred to above, they have alleged that Wasi Mohammad and two other persons collected the workmen and led them to surround the engineer's office, Mr. Johnson. This statement, if believed, would mean that Wasi Mohammad incited the workmen to assault the engineer Mr. Johnson; but there is no such charge included in the charge-sheet served on him. I may repeat that it would not be open to the management to make out a case which was not alleged in the charge-sheet served upon a workman. I am aware that in the column for "management's comments" on the charge-sheet, it has been said that evidence was available that he in consultation with others incited the workmen to enter Johnson's office. There is, however, nothing to suggest that these comments were communicated to Wasi Mohammad or that he was called upon to reply to the allegations made therein. In other words, he was never served with a charge-sheet alleging that he had incited the workmen to enter Mr. Johnson's office. That ground cannot therefore be now made by the management to dismiss him. The management can only take action against this workman in respect of the ground mentioned in the charge-sheet.

8. We have to see whether the management had before them any evidence from which it was possible for them to hold the charges proved. The only evidence produced before me consists of the statement of Rasul Mistry on 27th December 1950 and the statement of six persons dated 2nd January 1951. I have already referred to these statements. Rasul Mistry does not mention the name of Wasi Mohammad and his statement cannot be taken to prove anything against Wasi Mohammad. In the statement of the six persons made on 2nd January 1951, what is alleged against Wasi Mohammad is that he and two other workmen collected the workmen and led them to surround the engineer. This does not mean that he refused to leave the engineer's office or that he used subversive language or that he encouraged the mob not to leave the engineer's office. Mr. Zaidi, who appeared for the management, admitted before me that the statement of the engineer had not been recorded. He also conceded that the management had no other evidence except the evidence produced before this Tribunal. That would mean that the management had no evidence before them from which it was possible for them to hold that Wasi Mohammad refused to leave the office or that he used subversive language or that he incited the mob not to leave the office. The finding that this charge was proved would thus be perverse.

9. I may mention at this stage that reliance was placed on behalf of the management on a copy of Judgment of the First Class Magistrate, Dhanbad. Under that judgment, the Magistrate passed an order under Section 107 Cr. P.C. on 5th May 1951, binding over six persons including Wali Mohammad and Wasi Mohammad to maintain peace for a period of one year. It was therefore urged that the management were right in dismissing the two workmen namely, Wali Mohammad and Wasi Mohammad. This contention cannot be accepted for two reasons. Firstly, there was no charge against Wasi Mohammad that he was guilty of disorderly or riotous behaviour and the management cannot make out a new case which they had not alleged in the charge-sheet. Secondly, I was told by Shri Desai that this judgment of the First Class Magistrate had been reversed in appeal and Mr. Zaidi who appeared for the management admitted this fact. In the circumstances, it was not fair on the part of the management to have produced only a copy of the judgment of the Magistrate without producing a copy of the appellate judgment or

even mentioning that the appellate court had reversed the judgment of the Magistrate. After the case was closed an uncertified copy of the appellate court was sought to be produced, but I rejected it, as it was at a very late stage, when the other party would have no opportunity to meet it and as the copy was not a certified copy. As the judgment of the magistrate has been reversed, it has practically no value and it cannot be held proved that Wali Mohammad and Wasi Mohammad were persons of bad character or were persons from whom security for maintaining peace should have been taken.

10. The result is that so far as Wasi Mohammad is concerned, his discharge is improper (as there was no evidence before the management from which it was possible for them to hold the charges alleged in the charge-sheet served on him proved) and he must be reinstated. Of course, Wali Mohammad's discharge is proper and he cannot be reinstated.

ITEM NO. 2

Whether the dismissal of Rauf Khan is justified; if not, whether he should be reinstated with effect from the date of his discharge?

11. This item deals with the dismissal of one Rauf Khan. He was working as a line cooly upto 31st March 1951, and thereafter as a haulage khalasi. The case of the management is that Rauf Khan absented himself from duty without intimation to the management or without their permission from 12th April 1951 to 30th April 1951 and his services were automatically terminated. The case of the workmen is that Rauf was arrested by the police on 12th April 1951 while he was on duty, that he was released on 17th April 1951 and on the very day, he joined his duties and worked there till 19th April 1951 and he went on sick leave from 20th April 1951 upto 29th April 1951. At the hearing before me, the fact that he was arrested by police on 12th April 1951 and was in police custody upto 17th April 1951 was not disputed. The fact that he was ill from 20th April 1951 to 29th April 1951 can be seen from the medical certificate produced by him and from his ration card. The medical certificate is issued by the medical officer of the colliery dispensary and it shows that Rauf Khan was under the treatment of the medical officer from 20th April 1951 to 29th April 1951, and that he was fit to resume to work on 30th April 1951. In his ration card also, an endorsement has been made that he was sick from 20th April 1951 to 28th April 1951 and was reported fit from 30th April 1951. Thus on the admitted facts, it is clear that there was justification for his absence from duty from 12th April 1951 to 17th April 1951 and again from 20th April 1951 to 29th April 1951. The dispute relates to the period of three days between 17th April 1951 to 19th April 1951. It is the case of the workmen that Rauf Khan was on duty on these days. I directed the management to produce the attendance register, payment registers and other relevant documents to satisfy myself as to whether Rauf was on duty for these three days and I am satisfied that he was not on duty for these three days. The attendance registers show that he was not present on any day in that week. He has not been paid for that week. His own ration card shows that he got three days free rations of rice on 19th April 1951 but thereafter he got no free rations of rice. The three days free rations that he got on 19th April 1951 must be for the three days of 9th April 1951 to 11th April 1951 of the previous week. This also shows that after this he did not work in the colliery and got no free rations because for every day that a workman works he gets free ration of $\frac{1}{2}$ seer of rice. There is absolutely no evidence to show that Rauf Khan worked in the colliery between 17th April 1951 to 19th April 1951. He has not gone in the witness box to support these allegations. Looking to the evidence on record, I am therefore satisfied that he was not on duty on these three dates.

12. The question then is whether he is entitled to be reinstated. At the outset, I may mention that no charge-sheet was served on Rauf Khan and he was not asked to explain his action nor was any enquiry held before he was dismissed. As a matter of fact, there is no letter or order of dismissal. The management say that by his absence without leave, his service was automatically terminated. Under the Standing Orders for the coalmining industry, an uncertified copy of which has been produced in this case by the management, the only rule that was referred to was rule No. 11. It lays down that if any employee remains absent beyond the period of leave originally granted, he shall lose his lien on his employment unless he returns within 8 days of the expiry of the leave and gives an explanation to the satisfaction of the management of his inability to return before the expiry of leave. The rule further says that in case the employee loses his lien on the appointment, he shall be entitled to be kept on the badli list.

13. There is nothing in this case to show that the management acted under this order or rule. It is not shown that Rauf's name was kept on the badli list. A

letter was addressed to Rauf Khan by the management on 8th May stating that he absented himself from the colliery on 12th April 1951 and nothing further was heard from him until 30th April 1951. It further mentions that he left the work without permission and stayed away for a period of 10 days and at no time did he intimate to the management other than 30th April 1951 the reasons for his being absent. This letter did not require his explanation nor did it ask him to explain the reasons for his absence. Its contents on the contrary go to show that Rauf Khan must have intimated the reasons for his absence when he reported himself for duty on 30th April 1951. As I said above, his absence was justified between 12th to 17th and 20th to 29th. He could not justify his absence for three days between 17th to 19th.

14. In my opinion, rule 11 of the standing orders would not govern this case because it deals with an employee remaining absent beyond the period of leave originally granted or subsequently extended. In other words, it applies only to a case where some leave has been granted in the first instance. Admittedly in this case, no leave was granted at any time. The question of over-staying the period of leave therefore did not arise and rule 11 would therefore have no application. As pointed out above, this rule contemplates the keeping of the name of the employee on the badli list but that also has not been done, which would mean that the management did not act on rule 11 of the standing orders. I may further point out that in the letter of the 8th May, the management have stated that he left the work without permission and remained absent for a period of more than 10 days. Rule 11 mentions the period of over-stay of leave by more than 8 days. This also would indicate that the management did not act under rule 11 of the standing orders when they wrote the letter of 8th May. In my opinion, the management had under contemplation rule 27, sub-rule (16) which says that continuous absence without permission and without satisfactory cause for more than 10 days, would amount to misconduct. If the management thought that Rauf Khan was guilty of misconduct under this rule and should be dismissed, they should have, before dismissing him, held an enquiry and given an opportunity to him to explain his absence. I may here refer to the case of Messrs. Janardan Mills Ltd. and certain workmen (1953, Vol. I, L.L.J. page 344). There also the workmen were dismissed without an enquiry on the ground that the workmen absented themselves from work without leave. The Tribunal held that the workmen could not be dismissed without an enquiry and the rules of natural justice as well as the standing orders of the mills were not observed and so the order of reinstatement was justified. In the present case also, I think that looking to the fact that the management held no enquiry and gave no opportunity to Rauf Khan to explain his absence, his dismissal would not be justified. As I mentioned above, it has been alleged against him that he was absent without leave for 18 days from 12th April to 29th April. I have already shown above that his absence for 15 days out of this period of 18 days was justified because he was in police custody for five days and he was ill and under the treatment of the colliery medical officer for ten days. He would thus have to give satisfactory explanation about his absence for three days. No such explanation was asked for from him. The standing orders lay down that absence from duty without leave and without satisfactory cause for more than ten days would be misconduct. In other words, the absence without permission and without satisfactory cause for less than ten days would not be misconduct. In the present case, all that could be said against Rauf Khan was that he was absent without permission and without satisfactory cause for three days and this would not amount to misconduct and the management was not justified in dismissing him. Actually, as I said above, there has been no order of dismissal but Rauf Khan has not been allowed to work from 30th April 1951 without any justification. It may even amount to a lock-out. In any case, there can be no doubt that the management are bound to reinstate him as from 30th April 1951 on which date he was fit and reported for duty. In my opinion, therefore, an order of reinstatement should be passed in his case.

ITEM NO. 3

Whether the management is justified in dispensing with the services of the three Kamins viz., Sohgwa, Phulia and Kapurwa; if not whether they should be reinstated from the date of their discharge?

15. This item refers to the reinstatement of three kamins named above. In their written statement, the workmen stated that two of these kamins named Sohgwa and Kapurwa had been employed by the management and only Phulia was not re-employed and they therefore urged that she (Phulia) should be reinstated. The management by their written statement urged that Phulia was not discharged by the management but as she was very old and weak and could not

carry on her work, she of her own accord tendered her resignation by letter dated 1st February 1952. The management also produced a copy of this letter of resignation. When the matter came up for hearing before me, Mr. Desai on behalf of the workmen gave a statement that he did not press for this item. There is no evidence to show that Phulla did not tender her resignation or that she was dismissed by the management. The other two karnins referred to in this item are already in service. In the result therefore no order for reinstatement of any of these persons can be passed.

ITEM No. 4.

Whether payment for lead and lift should be paid in accordance with the Conciliation Board's recommendation and the Joshi Agreement as is the practice in the neighbouring collieries.

16. This item refers to payment of lead and lift. The workmen urge that rates for lead and lift fixed by Conciliation Board's Award, which are being followed in other collieries, should be paid by the management in the present case also. The management in their written statement said that they were paying for lead and lift at the rates recommended by the award of Conciliation Board. These rates are mentioned in para. 4 of the written statement of the workmen and have not been disputed. At the hearing before me, Shri Desai on behalf of the workmen said that in actual practice, the management were not paying the workmen anything for lead and lift. On the other hand, Mr. Zaidi on behalf of the management urged that payments for lead and lift are always made whenever they were admissible. Whether at a particular time the workmen had to do work of lead of more than 50 feet or lift of more than 10 feet, would be a question of detail, and it can be considered only when a specific allegation is made regarding the work done by a specific workman or workmen at a specific time. So far as the present reference is concerned, the point referred to me is whether payment for lead and lift should be made in accordance with the recommendations of the Conciliation Board's Award, as is the practice in the neighbouring collieries and my reply to it is simple. It would be in the affirmative as the management also agree that the workmen are entitled to payment for lead and lift in accordance with the terms of the Conciliation Board's Award. Mr. Zaidi also conceded that in passing my award, I should order that these payments should be made with effect from the date of reference namely 23rd May 1952 and if in any particular case, it was found that payment for lead and lift though due was not made, the parties could execute the award and obtain payment.

17. In the result, my award would be as under:

AWARD

Discharge of Wali Mohammad is justified and he cannot be reinstated. The discharge of Wasl Mohammad is not justified and he should be reinstated with effect from 3rd January 1951 and he should be paid his wages, bonuses, etc. and should get all advantages as if he was in service from 3rd January 1951.

Rauf Khan should also be reinstated with effect from 30th April 1951 and he should also be paid his wages, bonuses, etc. and given all advantages as if he was all along in service from 30th April 1951. No orders can be passed for reinstatement of Phulia, Soghwa, or Kapurva.

The management should make payments for lead and lift at the following rates:

LIFT

| | | |
|---------------|-----|-------|
| 0 to 10 feet | ... | Nil. |
| 10 to 15 feet | ... | 0-1-0 |
| 15 to 20 feet | ... | 0-2-0 |
| 20 to 25 feet | ... | 0-3-0 |

LEAD

| | | |
|-----------------|-----|-------|
| 0 to 50 feet | ... | Nil. |
| 50 to 100 feet | ... | 0-1-0 |
| 100 to 150 feet | ... | 0-3-0 |
| 150 to 200 feet | ... | 0-5-0 |

For every 50 feet beyond 200 feet an additional amount of As. 3.

The payments at the above rates should be made for work done by the workmen from 23rd May 1952.

The reinstatement of Wasi Mohammad and Rauf Khan and payment of back pay, wages, etc. and the payments for lead and lift that may have to be made under the terms of this award should be made within one month from the date when this award becomes enforceable. I pass an award accordingly.

Dated the 17th June, 1953.

(Sd.) L. P. DAVE, Chairman.

Central Government's Industrial Tribunal,
Dhanbad.

[No. LR. 2(367)]

S.R.O. 1335.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the management of Gaslitan Colliery and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD
REFERENCE NO. 27 OF 1951

PRESENT:

Shri L. P. Dave, B.A., LL.B.,—*Chairman.*

PARTIES:

The management of Gaslitan Colliery

AND

Their workmen.

APPEARANCES:

Mr. K. J. T. Keegan, Manager, and Shri B. N. Singh, Labour Officer, Gaslitan Colliery, for the management.

Shri M. V. Desai, General Secretary, Koyala Mazdoor Panchayat, for the workmen.

AWARD

The Government of India, Ministry of Labour, by their Order No. LR.2(346) dated 11th September 1951 read with LR.2(395) dated 4th February 1953, have referred the dispute between the management of the Gaslitan Colliery and their workmen in respect of the matters specified in the schedule annexed to the first Order, for adjudication to this Tribunal.

2. The management of the Gaslitan Colliery decided to close down certain districts in their colliery because of lack of working places, with the result that they had to discharge certain workmen. The workmen urged that retrenchment was not necessary or essential. Secondly they urged that proper principles were not followed in effecting retrenchment and that in some cases, senior persons were retrenched while juniors were retained in service. Lastly they urged that retrenched persons should have been given gratuity and other concessions. The management on the other hand urged that retrenchment was absolutely necessary and essential and that they had followed the principle of "last come, first go" in effecting the retrenchment. They denied that they were liable to pay any gratuity to the retrenched people.

3. At the hearing before me the parties produced a memorandum of agreement arrived at between them (a copy of which is annexed herewith). It is agreed thereunder that retrenchment was essential (it appears that the Mines Department was consulted and it also agreed that retrenchment was essential). It is further agreed that proper principles were followed in selecting men for retrenchment and the persons who were actually retrenched were the proper persons that should have been retrenched. A list of these persons has also been prepared and annexed to the agreement. The parties have further laid down the principles on which gratuity is to be given to the retrenched workmen. No gratuity is given to persons who had served for less than six months, while other persons have been given gratuity according to the length of service put in by them. In my opinion, all the terms of the compromise are fair and reasonable.

I therefore pass an award in terms of the memorandum of agreement entered into by the parties, a copy of which is annexed herewith.

Dated the 13th June, 1953.

(Sd.) L. P. DAVE, Chairman,
Central Govt.'s Industrial Tribunal, Dhanbad.

MEMORANDUM OF AGREEMENT.

1. It is agreed that Puna Bhua, Baldeo Bhua and Gouri Bhua would be given suitable work by the management.
2. That in the case of Baldeo Mistri, Tinkari Gope, Nanku Mistri, Baburam Mahato and Hemraj Mistri, all of whom are working under the Contractor the management agrees that the rule of seniority in their case should be applied.
3. In the case of Srigobind Singh it is agreed that his case will not be pressed at the moment but the Union reserves the right to bring up his case within three months and the management agrees to have that case considered on merits by an arbitrator to be jointly nominated whose decision will be final.
4. It is agreed that retrenchment was essential (this is without prejudice to the contention of the Union that the manner in which it was carried out was not legal).
5. It is agreed that the principle that was followed in selecting men for retrenchment that "last come first go" was legal. In some cases people discharged were the proper persons to be retrenched.
6. That the list submitted by the management about the people who were discharged is accepted as correct list of the persons to be retrenched. Both parties have agreed that people who have been subsequently re-appointed will be considered as persons who were never discharged. In case of these persons no claim for compensation or gratuity is made or pressed.
7. It is agreed that 81 persons mentioned in the accompanying list are persons who should have been and have been retrenched. The period of service put in by these persons have been shown against their respective names.
8. All these persons have been given notice pay, leave salary etc. It is agreed that in addition to the payment already made, they should be paid gratuity on the following principle:—

- (a) people with less than 6 months' service...Nil.
- (b) more than 6 months but less than one year's service ...1/2 (half) month's pay.
- (c) Between one year to two years' service.....1 (one) month's pay.
- (d) Between 2 years to three years' service.....1½ (one & half) months' pay.
- (e) Between 3 years to 4 years' service.....2 (two) months' pay.
- (f) Over 4 years' service...2½ (two and half) months' pay.

9. Pay for the purpose of the calculation of gratuity shall include D. A. and in case of piece-rated workmen on the same basis as calculated for leave-pay but shall not include the cash concession and value of foodgrains.

It is prayed that the compromise may kindly be recorded and the Reference disposed off on the above terms.

Dated 10th June 1953.

(Sd.) J. J. T. KEEGAN,

For and on behalf of the New Manbhum Coal
Co. Ltd. as Manager.

(Sd.) MAHESH V. DESAI,

Genl. Secy., Koyala Mazdoor Panchayat.

Filed.

DHANBAD;

Dated 10th June 1953.

(Sd.) L. P. DAVE, Chairman.

Central Government's Industrial Tribunal.

| Serial No. | Name | Length of Service |
|------------|---------------------|-------------------|
| 1 | Amulya Ratan Sirkar | Y. M. D. o 5 7 |
| 2 | Thakuri Chamar | o 1 26 |
| 3 | Ram Nandan Ram | o o 14 |
| 4 | Raulat Singh | o 6 18 |

| Serial No. | Name | Length of Service |
|------------|--------------------|-------------------|
| | | Y. M. D. |
| 5 | Rajeshwar Singh | 0 2 21 |
| 6 | Parrag Mahato | 3 10 16 |
| 7 | Ramkinkar Singh | 4 1 27 |
| 8 | Ramnivas Pandey | 4 1 27 |
| 9 | Tukan Routh | 4 1 27 |
| 10 | Dalsingh Pandey | 4 1 27 |
| 11 | Chiranjib Routh | 4 1 27 |
| 12 | Bharat Rough | 4 1 27 |
| 13 | Srikrishna Mehato | 4 1 27 |
| 14 | Balkishan Raouth | 3 3 8 |
| 15 | Kapil Mukherjee | 3 7 8 |
| 16 | Ranjit Singh | 3 7 8 |
| 17 | Nathuni Singh | 1 8 7 |
| 18 | Sarju Singh | 4 1 27 |
| 19 | Singeswar Routh | 4 1 27 |
| 20 | Sihon Bhulia | 0 4 24 |
| 21 | Nand Kishore | 0 3 12 |
| 22 | Bharat Gope | 0 5 16 |
| 23 | Indu Singh | 0 3 26 |
| 24 | Chandeswar Gope | 0 2 8 |
| 25 | Mangri Bhuini | 0 2 8 |
| 26 | Garhoo Bhulia | 0 3 9 |
| 27 | Sugan Gope | 1 3 12 |
| 28 | Budhan Gope | 0 5 16 |
| 29 | Suker Gope | 0 10 5 |
| 30 | Achhai Lal Gope | 0 2 6 |
| 31 | Titoo Chamar | 0 7 23 |
| 32 | Ch. Janki Chamar | 0 7 10 |
| 33 | Br. Musaroo Tanti | 3 9 21 |
| 34 | Rangoo Chamar | 0 11 23 |
| 35 | Hupon Chamar | 0 11 7 |
| 36 | Kheman Chamar | 1 1 23 |
| 37 | Lotan Bhulia | 4 1 12 |
| 38 | Chandraman Singh | 0 3 28 |
| 39 | Sadagar Bhulia | 1 5 23 |
| 40 | Sitwa Bhulia | 0 6 21 |
| 41 | Ch. Gobind Bhulia | 0 1 9 |
| 42 | Balik Mahato | 0 5 18 |
| 43 | Bhuneswar Singh | 0 6 10 |
| 44 | Manwari Kahar | 0 8 18 |
| 45 | Sovi Mia | 0 5 24 |
| 46 | Sipahi Sonar | 0 0 14 |
| 47 | Anhnoo Bhulia | 0 5 0 |
| 48 | Ch. Sukar Bhulia | 2 8 3 |
| 49 | Achhai Kumar | 0 7 26 |
| 50 | Ch. Raghu Bhulia | 0 6 5 |
| 51 | Atwari Bhulia | 0 9 5 |
| 52 | Bisheswar Bhulia | 0 4 4 |
| 53 | Mathura Bhulia | 0 5 6 |
| 54 | Rewa Gope (Bhulia) | 0 3 27 |
| 55 | Gobind Shaw | 0 4 14 |
| 56 | Ramdeo Dusad | 0 5 1 |
| 57 | Gurusahai Bhulia | 0 4 21 |
| 58 | Kheman Mahato | 0 4 21 |
| 59 | Nanka Bhulia | 0 5 17 |
| 60 | Banshi Shaw | 0 6 2 |
| 61 | Rupan Bhulia | 0 4 4 |
| 62 | Munshi Bhulia | 1 4 5 |
| 63 | Ancha Bhagta | 0 4 6 |
| 64 | Nanku Bhulia | 0 4 22 |
| 65 | Padarath Bhulia | 0 4 26 |
| 66 | Bishun Bhulia | 0 5 26 |
| 67 | Chuni Bhulia | 0 4 25 |
| 68 | Lachhu Bhulia | 0 4 21 |
| 69 | Bahal Bhulia | 0 6 1 |

| Serial No. | Name | Length of Service | Y. M. D. |
|---------------|----------------|----------------------|----------|
| 70 | Sukkhan Bhulia | 5 | 17 |
| 71 | Chhutu Bhulia | 5 | 25 |
| 72 | Munshi Bhulia | 5 | 15 |
| 73 | Chandar Bhulia | 4 | 21 |
| 74 | Chamari Dusad | 3 | 25 |
| 75 | Jethu Bhulia | 4 | 8 |
| 76 | Jagrup Pussi | 5 | 9 |
| 77 | Doron Dusad | 5 | 27 |
| 78 | Ambika Singh | 3 | 9 |
| 79 | Jugani Singh | 3 | 27 |
| 80 | Istu Mia | 3 | 8 27 |
| 81 | Huru Turi | 3 | 8 27 |

10th June 1953

(Sd.) J. J. I. KOEGAN,

(Sd.) MUHASH V. DESAI,

(Sd.) L. P. DAVE—Chairman,
Central Government's Industrial
Tribunal, Dhanbad.

[No. LR-2(346).]

New Delhi, the 30th June 1953

S.R.O. 1336.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (XIV of 1947), the Central Government publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under Section 33A of the said Act:

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD.

APPLICATION No. 28 of 1953

(arising out of Reference No. 6 of 1952).

In the matter of an application u/s 33A of the Industrial Disputes Act, 1947.

PRESENT:

Shri L. P. Dave, B.A., LL.B.—Chairman.

PARTIES:

Shri Sadhu Singh, Machine Driver, Bhowrah Colliery of M/s. Eastern Coal Co. Ltd.—Applicant.

Versus

Messrs. Eastern Coal Co. Ltd., Bhowrah Colliery.—Opposite Party.

APPEARNACES:

Shri B. N. Sharma, General Secretary, Tata Collieries Labour Association.—
For the Applicant.Shri S. K. Bhattacharya, Chief Welfare Officer, Eastern Coal Co. Ltd.—
For the Opposite Party.

AWARD

This is an application under section 33A of the Industrial Disputes Act, 1947.

2. The applicant was an employee of the opposite party and was working as a machine driver on 17th December 1952. An order was passed (on 22nd December 1952), suspending him for seven days as from 18th December 1952, and then reverting him as a tindel coolie. A dispute between the opposite party (and other collieries) and their workmen is pending before this Tribunal, being Reference No. 6 of 1952. The applicant has alleged that as this matter is pending before this Tribunal, the opposite party could not punish him, or alter the terms of his employment without the express permission of the Tribunal, and as the opposite party suspended and reduced him without the permission of the Tribunal, it has

contravened the provisions of Section 33A of the Industrial Disputes Act, 1947. He therefore prays that the order of suspension and reversion should be set aside.

3. The opposite party admitted that Reference No. 6 of 1952 is pending between itself and other collieries and their workmen. It contends that on 17th December 1952, the applicant, by his negligent and careless handling of a coal cutting machine, damaged it and broke the pinion putting the company to a considerable financial loss. A charge-sheet was served on him and a thorough enquiry was made. As a result, it was definitely found that the applicant was guilty of the charge brought against him. Considering the gravity of the offence and the financial loss to the company, the company would have justified in taking more drastic action against him, but they dealt with him leniently. They found him unfit to continue as a Machine Driver and he was therefore suspended for seven days and transferred to work as a tindel. It is therefore urged that the application should be dismissed.

4. Reference No. 6 of 1952 between 1078 collieries mentioned therein (including the opposite party) and their workmen has been pending before this Tribunal from 5th May 1952. The applicant is a workman of the opposite party. He was originally working as a tindel coolie, but was later on promoted as a Machine Driver and was working as such on 17th December 1952. It appears that on that day, he was at first working in pit No. 5, but later on he was asked to work in pit No. 4. He thereupon went and worked there. While he was doing the work, the pinion of the coal cutting machine at which he was working was broken. The opposite party alleges that the applicant was guilty of careless handling of the machine and thereby caused a break-down. An enquiry was held and the charge was found true and thereupon the opposite party passed an order suspending the applicant for seven days and reverting him as a tindel coolie. This order was passed on 22nd December 1952 and the applicant has come to this Tribunal, urging that the order was passed in contravention of Section 33A of the Industrial Disputes Act and should therefore be set aside.

5. As I said above, it is an admitted fact that the opposite party is a party to Reference No. 6 of 1952 which was made to this Tribunal by the Government on 5th May 1952. That reference is still pending before this Tribunal. The order complained of by the applicant in this case was passed on 22nd December 1952, i.e. during the pendency of the above reference. Admittedly, no permission was obtained from this Tribunal before this order was passed. Shri Bhattacharya for the opposite party conceded that the order was an order in contravention of Section 33A of the Industrial Disputes Act.

6. I have therefore now to consider as to whether the above order was proper, legal and justified or not and whether I should set it aside. As I said above, it is an admitted fact that the applicant was working as a Machine Driver and while he was working at the coal cutting machine, a pinion thereof was broken. The opposite party alleges that the pinion was broken as a result of careless and negligent handling of the machine by the applicant. A charge-sheet was served on the applicant and in reply thereto, he said that while he was working in the machine at pit No. 5, he was transferred to a machine in pit No. 4 and began to work there. He further said that after two cuts, the pinion broke itself and that this showed that the machine had defects in it before he was put in charge thereof but he could not realise at first that the machine was not in order. He further urged that he was not responsible for the breakdown. The management held an enquiry and recorded the statements of the engineer, fitter, the machine man, and the overman. As a result of these statements, the opposite party was satisfied that the applicant was guilty of careless handling of the machine and thereby causing its breakdown. The manager has been examined before me and he has also produced the statements recorded by him. It is true that the statements do not bear the dates on which they were recorded; but the manager in his deposition has stated that he recorded some on 17th and some on 18th. He also said that the engineer questioned the applicant in his presence about the reason of the breakdown; and he (i.e. the applicant) was not able to give any reply. The applicant has also admitted in his deposition that the engineer asked him about the reason of the breaking of the pinion and he says that he told him that it must be as a result of a stone coming across the machine. In the deposition before this Tribunal, he has said that the pinion must have been broken probably because it came across a stone. As I mentioned above, in his reply to the charge-sheet, he said that there must already have been some defect in the machine before he was put in charge thereof, but he thought that it must have been in order and went to work there and after it took two cuts, the pinion was broken because of the defect which was already there. It would thus appear that the applicant is giving out different reasons for the breaking of the pinion. From the statement of the engineer which was recorded

by the management, it would be clear that the reason of the breaking of the pinion was that the machine must have been put in gear, while the roter was running at a high speed. This would show that the machine driver was guilty of gross negligence and carelessness because he put the machine in gear at a time when he should not have done so. In this connection, the opposite party drew my attention to the fact that the applicant was ordinarily working in pit No. 5; but on the night in question, he was asked by the overman and the Assistant Manager to go and work in pit No. 4. The applicant in the deposition before this Tribunal has admitted that he was not willing to work in pit No. 4 and refused to do so; but as the overman and the Assistant Manager insisted, he was forced to go and work in pit No. 4 and did so unwillingly. It is then to be remembered that the pinion was broken after the first cut was over or at best after the second was over. It is likely that the applicant must have been feeling angry for being asked to work in pit No. 4 and as a result, may have put the machine in gear without caring to see whether it was the proper time to do so or not. There is no allegation on behalf of the applicant as to why the opposite party should victimise him or reduce him unless for valid reasons. He has not alleged any dispute either with the manager or with the engineer and there is no reason why the engineer should say that the reason of breaking of the pinion must be putting the machine in gear while it was working at a high speed. I am satisfied from the circumstances that the management were right in holding that the applicant was guilty of carelessness in handling the machine.

7. I may also point out that I am not sitting in appeal against the finding of the management. All that I have to consider is whether the management's action was *bona fide* and whether they had evidence before it from which it was possible for them to come to a conclusion that the charge against the applicant was proved. I am satisfied that the management's action was *bona fide* and also that there was evidence before the management from which it was possible for them to hold the charge proved. It is not a case of perverse finding, nor a case of victimisation or unfair labour practice nor has there been any infringement of the principles of natural justice. Lastly there is no basic error of facts and in these circumstances, the Tribunal cannot interfere in the order passed by the management.

8. The management has passed an order of suspension of seven days and reversion to the original post of a tindel. In my opinion, this punishment cannot be said to be severe or excessive. The applicant by his action of putting the machine in gear while it was rotating at a high speed, showed that he was unfit to work as an engine driver. His carelessness and negligent act put the employer to a great financial loss, because the machine (or the pinion) had to be replaced and also because that particular machine could not work for some days (till the pinion was replaced). In the circumstances, the suspension for a period of seven days and reversion to the original post is, in my opinion, not excessive or harsh.

9. Shri Sharma on behalf of the applicant argued that the management could not pass two sentences against the applicant for the same offence, and that the order of suspension and reversion amounted to two separate sentences. He urged that there should be either an order of suspension or an order of reversion. I cannot agree with this contention. By passing two kinds of punishments at the same time, the management is not giving two punishments to the applicant for the same offence. To take a comparison from the criminal law, an accused person who is found guilty may be sentenced both to imprisonment and to fine or to either. But if he is sentenced to imprisonment and fine, it could not be said that he has been punished twice. It only means that two kinds of sentences are passed and there is nothing to prevent the management from doing so. For instance, they could even have passed an order in the present case of recovering the price of the broken pinion of the machine. These are all parts of one punishment and not different punishments. In my opinion, therefore, this contention of Mr. Sharma appearing for the applicant cannot be accepted.

The result is that the applicant is not entitled to have the order of suspension or reversion set aside. The application fails and must be dismissed and I pass an award accordingly.

Dated 20th June 1953.

L. P. DAVE, Chairman,
Central Government's Industrial Tribunal,
Dhanbad.

[No. LR-2(365).]

New Delhi, the 1st July, 1953

S.R.O. 1337.—Whereas the Central Government is satisfied that public interest requires the extension of the period specified in the notification of the Government of India in the Ministry of Labour, No. S.R.O. 110, dated the 7th January 1953 declaring the coal industry so far as it is concerned with the production and supply of coal and coke to be a public utility service;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby declares the coal industry so far as it is concerned with the production and supply of coal and coke to be a public utility service for the purposes of the said Act for a further period of six months commencing from the 14th July, 1953.

[No. LR.1(32).]

P. S. EASWARAN, Under Secy.

New Delhi, the 30th June 1953

S.R.O. 1338.—In exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby exempts the workshop attached to St. Xavier's Industrial School, Tanjore, and the F.I.N.S. Women's Workshop, Park Town, Madras, from payment of employer's special contribution under Chapter V-A of the said Act, for a period of one year in the first instance.

[No. SS-204(1).]

S.R.O. 1339.—In exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby exempts the workshop under the Agricultural Engineer, Bombay State, Poona, from payment of employer's special contribution under Chapter V-A of the said Act.

[No. SS-199(4).]

K. N. NAMBIAR, Under Secy.